

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KELLYSTEEN RUFFIN, : **MISC. NO. 1:07-MC-0202**

: :

Plaintiff : **(Judge Conner)**

v.

: :

**CAPITAL RECOVERY ASSOCIATES,
INC.,** :

: :

Defendant :

ORDER

AND NOW, this 5th day of October, 2007, upon consideration of plaintiff's motion to compel discovery and for payment of expenses (Doc. 2), averring that a corporate designee of Capital Recovery Agency, Inc.¹ did not attend a scheduled deposition and seeking costs and attorney's fees for this failure to comply with a discovery request, see FED. R. CIV. P. 30, 37, and it appearing that the motion is unopposed,² it is hereby ORDERED that the motion to compel discovery and for payment of expenses (Doc. 2) is GRANTED in part as follows:

¹ Plaintiff acknowledges that Capital Recovery Agency, Inc. is not the named defendant in the above-captioned case, but avers that it was created by principals of defendant as a vehicle to transfer all assets of defendant and argues that it and defendant should be considered as one for purposes of enforcement of the judgment against defendant. (See Doc. 2 at 2 n.1.)

² Defendant has not secured representation of counsel of record in the above-captioned case. See Simbraw, Inc. v. United States, 367 F.2d 373, 373 (3d Cir. 1966) (per curiam) (holding that "a corporation, to litigate its rights in a court of law, [must] employ an attorney at law to appear for it and represent it"), cited with approval in Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 203 (1993).

1. Capital Recovery Agency, Inc. shall comply with the notice of deposition duces tecum served upon it by plaintiff and shall provide a suitable corporate designee or designees, with the requested documents, for deposition at the office of plaintiff's attorney, at a date and time set by plaintiff's attorney.
2. On or before October 22, 2007, Capital Recovery Agency, Inc. shall file, through counsel, a brief in opposition to plaintiff's request for the sum of \$158.66 as costs and \$405.00 as reasonable attorney's fees incurred by plaintiff as a result of Capital Recovery Agency, Inc.'s failure to comply with plaintiff's discovery request. See FED. R. CIV. P. 37. Failure to file a brief in opposition shall result in the request for costs and attorney's fees being deemed unopposed. See L.R. 7.6.
3. On or before October 12, 2007, plaintiff shall cause to be served upon Capital Recovery Agency, Inc. and defendant a copy of this order and file proof thereof with the court.³

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

³ The court notes that plaintiff already served a copy of the motion (Doc. 2) upon Capital Recovery Agency, Inc. and defendant.